

REMARKS

Claims 4-6 and 8 are all the claims pending in the application. Previously claims 1-3, 7, 9, and 10, were canceled without prejudice or disclaimer. Reconsideration and allowance of all the claims are respectfully requested in view of the following remarks.

Claim Rejections - 35 U.S.C. § 102

- The Examiner rejected claims 4-6 and 8, under §102(b) as being anticipated by US Patent 5,329,970 to Squirrell (hereinafter Squirrell).
- The Examiner rejected claims 4-6 and 8, under §102(b) as being anticipated by US Patent 4,932,437 to Bachmann (hereinafter Bachmann).
- The Examiner rejected claims 4-6 and 8, under §102(b) as being anticipated by US Patent 6,050,084 to Schütz et al. (hereinafter Schütz).

Applicants respectfully traverse each of the above rejections because each of the references fails to disclose all the elements as set forth and arranged in the claims.

Claims 4 and 8 set forth a damper system, for a gas turbine exhaust passage, comprising a damper made of an acoustically transmissive material, which is porous from its innermost portion to its outermost portion.

As shown in Fig. 3, for example, one embodiment consistent with that set forth in claims 4 and 8 includes a damper 9 made of porous plates 91 and a porous material 92. With this arrangement, the damping effect of an acoustic field within the exhaust passage is enhanced to make it possible to reduce resonance magnification. Hence, it is possible to suppress radiation of the strong ultra low frequency noise generated in the gas turbine to the outside. See the specification at, for example: page 3, 3rd full paragraph, to page 4, last full paragraph; and page 5, 2nd and 3rd full paragraphs.

In contrast to that set forth in each one of claims 4 and 8, Schütz discloses a damper 40 comprised of an insulating layer 74 of fabric and cover plates 72 of heat-resistant chromium

steel.¹ And the cover plates 72 of heat-resistant chromium steel are not porous. Accordingly, Schütz' damper 40 is not porous from its innermost portion to its outermost portion, as set forth in each one of claims 4 and 8. Additionally, each of Squirrell and Bachmann fails to disclose a damper that is porous from its innermost portion to its outermost portion, as set forth in each of claims 4 and 8.

For at least any of the above reasons, none of Squirrell, Bachmann, and Schütz, anticipates any one of claims 4 and 8. Likewise, each one of these references fails to anticipate dependent claims 5 and 6.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejected claims 4-6 and 8 under §103(a) as being unpatentable over each one of Squirrell, Bachmann, and Schütz. Applicants traverse each of these rejections because the Examiner has failed to establish *prima facie* obviousness.

First, procedurally, Examiner has failed to establish *prima facie* obviousness in that he has failed to explain, with specificity, at least one of the rejections. *Ex parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989). See also MPEP § 2142.

Specifically, to establish *prima facie* obviousness, the Examiner must ascertain the differences between the prior art and the claimed invention.² In each case here, the Examiner repeats his rationale, *verbatim*, from the corresponding rejection under §102, and then asserts "It would have been obvious to one of ordinary skill in the art that the damper will allow low frequencies to be acoustically transmissive through the damper."³ However, the Examiner has already asserted—by virtue of his rejection of the same claims under §102 using these same references—that each of the references already discloses all the elements of claims 4-6 and 8. It

¹ Schütz at col. 6, lines 32-44.

² MPEP §2141.

³ Office Action at page 4, item 8, for example.

is thus unclear what the Examiner ascertains as being the differences between the claimed invention and the cited art. More specifically, if it is the Examiner's position that each of the references already discloses an acoustically transmissive material, then his rejection under §103 is improper. Alternatively, if it is the Examiner's position that each of the references does not disclose an acoustically transmissive material, but that it would have been obvious to provide such a material, then his rejection under §102 is improper. Accordingly, Applicants respectfully request that the Examiner clarify his position.

Second, for the sake of argument alone, even assuming that the Examiner's rejection under §103(a) procedurally was proper, each of the references still fails to teach or suggest all the elements as set forth and arranged in the claims.

As noted above with respect to the rejections under §102, each of the references fails to disclose a damper that is porous from its innermost portion to its outermost portion, as set forth in each of claims 4 and 8. Further, the Examiner provides no motivation, or reasoning, for modifying any one of the references so as to include such an element. Accordingly, each one of Squirrell, Bachmann, and Schütz fails to render obvious claims 4 and 8. Likewise, these references fail to render obvious dependent claims 5 and 6.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment Under 37 C.F.R. § 1.111
US Appln. 10/717,477

Atty. Docket: Q78517

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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23373

CUSTOMER NUMBER

Date: July 15, 2004